



UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

Issued by the Department of Transportation on March 24, 1999

NOTICE OF ACTION TAKEN -- DOCKET OST-99-5212

CORRECTED COPY

This serves as notice to the public of the action described below, taken by the Department official indicated (no additional confirming order will be issued in this matter).

Joint Applicants: **Scandinavian Airlines System (SAS)/Lufthansa German Airlines** Date Filed: March 8, 1999

Relief requested: Amend Statement of Authorization (#97-637), last granted October 20, 1997, under 14 CFR 212 of the Department's regulations to permit (1) SAS to display Lufthansa's designator code on flights operated by SAS between Chicago, IL, and Stockholm, Sweden; and (2) Lufthansa to display SAS's designator code on flights operated by Lufthansa between Houston, TX, and Frankfurt, Germany.

Applicant representatives: Michael Goldman (SAS) 202-944-3305; James Campbell (Lufthansa) 202-663-6000

Responsive pleadings: None

DISPOSITION

Action: Approved, subject to conditions:

Action date: March 24, 1999

Basis for approval: U.S.-Germany & U.S.-Denmark/Norway/Sweden Air Transport Agreements

This authority is subject to the following conditions:

(a) The statement of authorization will remain in effect only as long as (i) SAS and Lufthansa continue to hold the necessary underlying authority to operate the code-share services at issue, and (ii) the code-share agreement providing for the code-share operations remains in effect.

(b) SAS and/or Lufthansa must promptly notify the Department if the code-share agreement providing for the code-share operations is no longer effective or the carriers decide to cease operating any or all of the approved code-share services. Such notices should be filed in Docket OST-99-5212.¹

(c) All operations conducted under this authorization must comply with the terms, conditions and limitation of Order 96-11-1 (antitrust immunity order) and any subsequent order(s) of the Department regarding the alliance.

(d) The code-sharing operations conducted under this authority must comply with 14 CFR 399.88 and with any amendments to the Department's regulations concerning code-share arrangements that may be adopted. Notwithstanding any provisions in the contract between the carriers, our approval here is expressly conditioned upon the requirements that the subject foreign air transportation be sold in the name of the carrier holding out such service in computer reservation systems and elsewhere; that the carrier selling such transportation (*i.e.*, the carrier shown on the ticket) accept responsibility for the entirety of the code-share journey for all obligations established in its contract of carriage with the passenger; and that the passenger liability of the operating carrier be unaffected.

(e) The authority granted here is specifically conditioned so that neither SAS nor Lufthansa shall give any force or effect to any contractual provisions between themselves that are contrary to these conditions.

¹ We expect this notification to be received within 10 days of such non-effectiveness or of such decision.

Action taken by: Paul L. Gretch, Director
Office of International Aviation

Under authority assigned by the Department in its regulations, 14 CFR Part 385, we found that grant of the authority was in the public interest. We may amend, modify, or revoke the authority granted in this Notice at any time without hearing at our discretion.

Persons entitled to petition the Department for review of the action set forth in this Notice under the Department's regulations, 14 CFR §385.30, may file their petitions within ten (10) days after the date of issuance of this Notice. This action was effective when taken, and the filing of a petition for review will not alter such effectiveness.

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